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Before the
FEDERAL COMMUNICATION COMMISSION
Washington, D.C. 20554

In the Matter of:	
Streamlining the International Section 214 Authorization Process and Tariff Requirements	IB Docket No. 95-118

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Reply of BT North America Inc.

BT North America Inc. (BTNA), by its attorney, hereby replies to the various comments[1] filed in the above-captioned *Notice of Proposed Rulemaking (NPRM)*.[2] The Commission in that *NPRM* advanced a number of suggested changes to its rules that would streamline the process for international carriers to obtain Section 214 authority and file tariffs. While some commenters have attempted to inject extraneous issues, BTNA urges the Commission to limit itself to the matters raised in its *NPRM* and -- with a single exception,

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[1] Comments were filed by, in addition to BTNA, ACC Global; America's Carriers Telecommunications Association; Americatel; Ameritech; AT&T; CompTel; GST Pacwest Telecom Hawaii; MCI; MFS; PanAmSat; Shaw, Pittman; Sprint; Teleport; and WorldCom.

[2] FCC 95-286 (July 17, 1995).

discussed below -- rapidly adopt its proposed rules designed to promote the competitiveness of the U.S.-international telecommunications marketplace.

I. A SOUND PUBLIC INTEREST BASIS EXISTS TO ADOPT THE COMMISSION'S SUGGESTED RULES EXCEPT THE REQUIREMENT PROHIBITING CARRIERS DOMINANT ON ANY SINGLE ROUTE FROM AVAILING THEMSELVES OF STREAMLINED APPLICATION PROCESSING ON NON-DOMINANT ROUTES

The overwhelming number of commenters favor the important liberalizations set forth in the *NPRM*. All support granting "blanket" Section 214 authorizations to facilities-based carriers;[3] reducing the amount of information required to be filed in Section 214 applications;[4] permitting resellers to use any authorized carrier (other than an affiliate);[5] authorizing private line resellers to provide interconnected private line service to any country deemed equivalent;[6] and simplifying the process, and reducing the notification period, for discontinuances.[7] Similarly, virtually all commenters agree that non-dominant carriers should be permitted to file rates on one-day's notice[8] and that the filing period for petitions to deny non-dominant carrier

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[3] *E.g.*, AT&T at 5.

[4] *E.g.*, Teleport at 3.

[5] *E.g.*, MFS at 4.

[6] *E.g.*, ACT at 3.

[7] *E.g.*, MFS at 4.

[8] *E.g.*, CompTel at 2. AT&T (at 13) suggests that dominant carriers be afforded a similarly shortened notice period.

non-dominant carrier applications should be reduced.[9] The Commission should move forward to adopt these changes immediately.

In its comments, Sprint takes issue with the Commission's proposal[10] to withhold streamlined processing for section 214 applications filed by carriers that are dominant on some routes but not on others.[11] BTNA supports Sprint's position. A carrier deemed dominant on one or more routes but non-dominant on others should not be forced to await formal Commission action before commencing service on the latter routes. In the most common example where a carrier has foreign affiliations in some countries, the Commission has already determined that service to countries where there is no affiliate relationship presents no risk to U.S. consumers or competing carriers. In fact, where a U.S. carrier's affiliate has no bottleneck control, the Commission has found such entities to have neither the incentive or the ability to discriminate against unaffiliated carriers -- the *sine qua non* of non dominance.

Moreover, the FCC need not be concerned that. in the absence of such a rule, any problems will develop without it learning about them. As all parties can file complaints against a carrier pursuant to Section 208 of the Act. the Commission can be assured that in the unlikely event any improper act takes place, it will be made aware of the matter and will be capable of resolving any issues that arise.

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[9] *E.g.,* MFS at 4. AT&T (at 12) requests identical treatment for dominant carriers; WorldCom (at 4) opposes any reduction of the filing period.

[10] *NPRM*, ¶ 15.

[11] Sprint at 4-5.

Indeed, the Commission is itself inconsistent in its application of the non-dominance policy. The *NPRM* makes clear that carriers dominant on a single route will continue to be eligible for non-dominant treatment on all other routes and affirms that such carriers can receive blanket global authority on non-dominant routes, just like other non-dominant carriers.[12] BTNA agrees with Sprint that there is no public interest basis for requiring a carrier that is non-dominant on the route applied for to await written orders when obtaining blanket authority. Such a policy only results in delayed service to the public and increased administrative burden, without any corresponding policy benefits. BTNA strongly urges that any carrier's application to serve a route on which it is non-dominant be subject to automatic grant 35 days after initial public notice.

Finally, a few commenters have taken the opportunity to interject into this proceeding requests for specific actions that are beyond the intended scope of the Commission's *NPRM* and the notice given the public.[13] BTNA urges the Commission not to consider these issues in this proceeding. Such consideration will only complicate, and therefore delay, the introduction of the reforms proposed by the *NPRM*, as well as raise legal issues about the sufficiency of the FCC's *NPRM* to give adequate notice under the Administrative Procedure

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[12] *Id.*

[13] For example, ACC requests that the FCC intervene regarding "growth-based" accounting rates (at 8), and that the FCC alter the wording of the "special concession" certification (at 9).

Act.[14] If the Commission believes that these matters warrant further consideration, a separate proceeding is both necessary and appropriate.

II. CONCLUSION

BTNA's opening comments supporting the Commission's overall deregulatory approach were echoed by the vast majority of the Comments filed. BTNA's sole suggestion is

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[14] One extraneous matter, however, warrants specific mention. Pacwest suggests that the Commission order local exchange carriers to offer LEC customers a "fresh look" opportunity to change their designated international carrier. GST Pacwest Telecom Hawaii at 4. As the agency well knows, Federal abrogation of private contracts is a step not lightly taken nor often used. *See* United Gas Co. v. Mobile Gas Corp., 350 U.S. 332 (1956). Moreover, the Communications Act requires that such a public interest finding be made, if at all, in a Section 205 hearing. 47 U.S.C. § 205 (1994) (requiring "full opportunity for hearing" before the agency may determine that any "charge, classification, regulation, or practice" of a carrier violates the Act). Plainly, the instant notice and comment rulemaking is not adequate, *see, e.g.*, Competition in the Interstate Interexchange Marketplace, 7 F.C.C. Rcd 2777, 2682 (1992) (affirming contract abrogation where NPRM provided explicit notice, citing Section 205, that agency would consider abrogation), and Pacwest's suggestion has no place in this proceeding.

that the Commission treat all carriers that are non-dominant on particular routes alike, permitting streamlined processing and automatic grants 35 days after public notice. Any other issues raised can await a more appropriate proceeding.

Respectfully Submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on this 7th day of September, 1995, I caused copies of the foregoing "Reply of BT North America Inc." to be mailed via first-class postage prepaid mail to the individuals on the attached list.

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